

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL SHERMAN LEWIS,
Petitioner,
v.
NASA, et. al.,
Respondents.

No. 2:21-cv-0379 AC P

ORDER

Petitioner, an individual who does not appear to be incarcerated,¹ has submitted a letter to the court. ECF No. 1. The letter is virtually unintelligible. However, based upon petitioner's use of the words "habeas coupus [sic]" on the first page of the document (see id. at 1), the court believes that petitioner may be seeking to file a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The filing does not itself constitute such a petition, and it may not fairly be construed as such.²

Petitioner has not filed an in forma pauperis affidavit or paid the required filing fee (\$5.00) for this action, either. See 28 U.S.C. §§ 1914(a); 1915(a). In order to commence an

¹ The address on petitioner's letter appears to be a private address. See ECF No. 1 at 5. Petitioner may, however, be "in custody" for purposes of Section 2254. See, e.g., Spencer v. Kemna, 523 U.S. 1, 8 (1998) (stating parolee's challenge to validity of conviction satisfies case or controversy requirement for Section 2254 petitioner).

² In order to clarify the docket, the court will direct the Clerk of Court to recharacterize the document as a letter rather than a habeas petition.

1 action, a litigant must file a complaint as required by Rule 3 of the Federal Rules of Civil
2 Procedure, and he must either pay the appropriate filing fee or file an application requesting leave
3 to proceed in forma pauperis. See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue any
4 orders granting or denying relief until an action has been properly commenced.

5 For these reasons, petitioner will be ordered to file: (1) a petition for writ of habeas
6 corpus, and (2) an application to proceed in forma pauperis. In lieu of the latter, petitioner may
7 pay the appropriate filing fee. The Clerk of Court will be directed to send petitioner copies of
8 these forms.

9 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of Court shall:

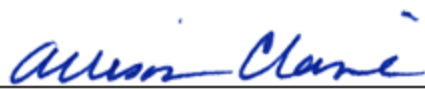
- 10 1. Recharacterize petitioner's initial filing in this action (ECF No. 1) as a "letter" instead
11 of a "petition" on the docket;
- 12 2. Send petitioner one copy of each of the following:
- 13 a. An Application to Proceed in District Court Without Prepaying Fees or Costs;
- 14 b. The appropriate petition for writ of habeas corpus form;
- 15 c. Petitioner's letter (ECF No. 1);
- 16 d. Any new case documents a non-prisoner should receive, and
- 17 e. The docket of this action.

18 IT IS FURTHER ORDERED that within thirty days of the date of this order, petitioner
19 shall complete and file:

- 20 1. The application to proceed in forma pauperis. In the alternative, petitioner may pay
21 the appropriate filing fee, and
- 22 2. The petition for writ of habeas corpus form.

23 Petitioner is warned that failure to comply with this order will result in a recommendation
24 that this action be dismissed.

25 DATED: March 10, 2021

26 
27 ALLISON CLAIRE
28 UNITED STATES MAGISTRATE JUDGE